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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/171113

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 30, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on February 15, 2016, at Balsam Lake, Wisconsin.

The issue for determination is whether the petitioner is entitled to an upper partial denture.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Dr. [REDACTED] (written submission)  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of Polk County.
2. The petitioner with his dentist, Dr. [REDACTED] [REDACTED], requested an upper partial denture on November 6, 2015, at a cost of \$1,723. The Division of Health Care Access and Accountability denied the request on November 19, 2015.

3. The petitioner is missing upper teeth Nos. 1 – 3, 5, and 12 – 16. These are all posterior teeth.
4. There is insufficient evidence to determine whether the petitioner’s periodontal health will allow him to successfully wear the requested denture.

### DISCUSSION

Medical assistance requires prior authorization before a person can receive a partial denture. Wis. Admin. Code § DHS 107.07(2)(a)3.b. The petitioner requests an upper partial denture to replace missing upper teeth Nos. 1 – 3, 5, and 12 – 16. These are considered posterior teeth because they are either molars or bicusps. *See Online Medicaid Handbook*, Topic #2895. Medical assistance policy allows partial dentures for those with fewer than two posterior teeth per quadrant in occlusion with the opposing quadrant. *Id.* But it also requires the recipient to have “good oral health and hygiene, good periodontal health,... and a favorable prognosis where continuous deterioration of teeth and periodontal health is not expected.” *Id.*

The petitioner meets the approval criteria because he has only one posterior tooth remaining in the quadrant comprising teeth Nos. 1 – 8. The department’s dental consultant and the petitioner’s dentist disagree about whether his oral health will allow him to wear the dentures successfully. Dr. [REDACTED], writing for the department, states that “there is significant bone loss in the area of the mouth in question and numerous pocket depths charted at 5 and greater in the members [sic] maxilla (upper teeth).” He concluded “that the current periodontal health of the member’s teeth didn’t yield a favorable prognosis where continuous deterioration of the teeth and periodontal health could not be expected.” [REDACTED] *January 25, 2016, letter to the petitioner and the Division of Hearings and Appeals*, p.2. The petitioner’s dentist, Dr. [REDACTED], conceded that the petitioner has periodontal disease but contends that “he has received periodontal therapy and his remaining 7 teeth have responded well to said therapy. Even though there is some bone loss, the teeth are firm and will support an upper removable partial denture.” [REDACTED] *November 25, 2015, letter included in Prior Authorization Request*.

I am aware that excessive pocket depths in gums and bone loss affect the prognosis for a denture. But I am not a dentist. It would have been helpful if Dr. [REDACTED] had explained how the excessive pocket depths affect the prognosis: Is there a percentage of dentures with a certain level of pocket depths that fail? If so, how many fail at what level of pockets? If he could not make a specific correlation between the pocket depths and denture failure, what correlation can he make? As for bone loss, Dr. [REDACTED] did not indicate how much bone was lost and what the correlation is between this level of bone loss and the unsuccessful use of dentures. Dr. [REDACTED] did submit prints of the X-rays, but I lack the background to interpret them.

Dr. [REDACTED]’s submission is just as vague. What is the evidence that the petitioner’s teeth have responded well to periodontal therapy? Dr. [REDACTED] should have indicated what therapy was provided, what the pocket depths were before the therapy, whether those depths have decreased, and what the correlation is between the current level of gum disease and the ability to successfully wear a denture. Because he is the treating dentist, I respect his view that the remaining teeth are firm enough to support the requested denture. But to determine whether the denture is medically necessary, I need a more specific discussion of how the petitioner’s periodontal disease affects his ability to successfully wear the denture not just when he gets it but for several years after that.

I am supposed to base my decisions on firm, specific medical evidence. Although neither party’s evidence met this standard, the petitioner is the party that must prove by the preponderance of the credible evidence that the requested denture is necessary. Because he and his dentist have not met this burden, I must uphold the department’s denial.

**CONCLUSIONS OF LAW**

The Division of Health Care Access and Accountability correctly denied the requested partial denture because the petitioner has not shown by the preponderance of the credible evidence that it is medically necessary.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 23rd day of February, 2016

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\sMichael D. O'Brien  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on February 23, 2016.

Division of Health Care Access and Accountability